

AMENDED IN ASSEMBLY JUNE 21, 2010

AMENDED IN ASSEMBLY JUNE 7, 2010

AMENDED IN ASSEMBLY JUNE 24, 2009

AMENDED IN SENATE JUNE 1, 2009

AMENDED IN SENATE MAY 20, 2009

AMENDED IN SENATE APRIL 23, 2009

AMENDED IN SENATE APRIL 2, 2009

## **SENATE BILL**

**No. 346**

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**Introduced by Senators Kehoe and Simitian**

February 25, 2009

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An act to add Article 13.5 (commencing with Section 25250.50) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous materials.

### **LEGISLATIVE COUNSEL'S DIGEST**

SB 346, as amended, Kehoe. Hazardous materials: motor vehicle brake friction materials.

(1) Existing law establishes the Department of Toxic Substances Control in the California Environmental Protection Agency, with powers and duties regarding the management of hazardous waste. Existing law, administered by the department, prohibits the management of hazardous waste except in accordance with the hazardous waste control laws, including laws governing the removal of any mercury-containing vehicle light switch from a vehicle, and the regulations adopted by the department. A violation of the hazardous waste control laws is a crime.

The bill, commencing on January 1, 2014, would prohibit the sale of any motor vehicle brake friction materials containing specified constituents in amounts that exceed certain concentrations. The bill, commencing on January 1, 2025, would prohibit motor vehicle brake friction materials exceeding 0.5% copper by weight from being sold in California. The bill, commencing on January 1, 2014, would require all manufacturers of motor vehicle brake friction materials that are sold in this state to obtain a certification of compliance with these requirements from a 3rd-party testing certification agency, and to mark proof of certification on the friction materials. The bill would require a manufacturer of brake friction materials to file a copy of the 3rd-party certification with the department and to pay a reasonable filing fee. A violation of these provisions would be subject to a civil fine of up to \$10,000 per violation. Because a violation of these provisions would also be a crime pursuant to the hazardous waste control laws, the bill would impose a state-mandated local program.

*(2) Existing law requires the department to adopt regulations to establish a process to identify and prioritize chemicals of concern in consumer products. As part of this process, the department is required to adopt regulations for the evaluation of chemicals of concern in consumer products, including a process for evaluating alternatives.*

*This bill would direct the department to require vehicle brake manufacturers to comply with the regulations for the department's evaluation of chemicals of concern and, before those regulations are adopted, to ensure that formulations developed to comply with the above content requirements are less harmful to health and the environment.*

*(2)*

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

*Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.*

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

1 (a) Friction materials are an essential component of motor  
2 vehicle brake systems and of critical importance to transportation  
3 safety and the public safety in general.

4 (b) Debris from friction materials containing copper in all of its  
5 forms, including, but not limited to, elemental copper and all of  
6 its alloys and compounds, are generated and released to the  
7 surrounding environment in the course of normal brake system  
8 operation.

9 (c) Tens of thousands of pounds of copper and other substances  
10 released from brake friction materials enter California's streams,  
11 rivers, and marine environment every year.

12 (d) Copper is toxic to many aquatic organisms, including  
13 salmon.

14 (e) Limits on the copper content of brake friction materials are  
15 essential for California cities, counties, and industries to comply  
16 with federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.)  
17 mandates, including copper water quality standards and copper  
18 total maximum daily loads in California's urban watersheds.

19 (f) Without limits on the copper content of brake friction  
20 materials, California taxpayers face billions of dollars in federal  
21 Clean Water Act compliance costs.

22 (g) Changes in the composition of brake friction materials made  
23 to comply with copper water quality standards and successfully  
24 implement copper total maximum daily loads in California's urban  
25 watersheds should meet all applicable safety standards.

26 SEC. 2. Article 13.5 (commencing with Section 25250.50) is  
27 added to Chapter 6.5 of Division 20 of the Health and Safety Code,  
28 to read:

29  
30 Article 13.5. Motor Vehicle Brake Friction Materials

31  
32 25250.50. For purposes of this article, the following definitions  
33 apply:

34 (a) "Board" means the State Water Resources Control Board.

35 (b) "Department" means the Department of Toxic Substances  
36 Control.

37 (c) "~~Motor Vehicle~~ vehicle" has the same meaning as "vehicle"  
38 is defined in Section 670 of the Vehicle Code.

39 (d) "Testing certification agency" means an agency approved  
40 by the department as qualified and equipped for the certification

1 of testing of products, materials, equipment, and installations in  
2 accordance with nationally recognized standards.

3 25250.52. On and after January 1, 2025, any motor vehicle  
4 brake friction materials exceeding 0.5 percent copper by weight  
5 shall not be sold in this state.

6 25250.54. On and after January 1, 2014, any motor vehicle  
7 brake friction materials containing any of the following constituents  
8 in an amount that exceeds the following concentrations shall not  
9 be sold in this state:

10 (a) Cadmium and its compounds: 0.01 percent by weight.

11 (b) Chromium(VI)-salts: 0.1 percent by weight.

12 (c) Lead and its compounds: 0.1 percent by weight.

13 (d) Mercury and its compounds: 0.1 percent by weight.

14 (e) Asbestiform fibers: 0.1 percent by weight.

15 25250.56. (a) The department shall require vehicle brake  
16 manufacturers to comply with *the regulations adopted pursuant*  
17 *to subdivision (a) of Section 25253* in their development of brake  
18 friction materials ~~that comply with Sections 25250.52 and~~  
19 ~~25250.54.~~ In the process of complying with *the regulations adopted*  
20 *pursuant to subdivision (a) of Section 25253*, a manufacturer shall  
21 give specific consideration to the cumulative impacts on health  
22 and the environment of alternatives that increase the use of nickel,  
23 zinc, and antimony.

24 ~~(b) This section does not authorize the department to modify or~~  
25 ~~disregard the requirements in Section 25250.52 or 25250.54.~~

26 (e)

27 (b) Prior to the enactment of regulations implementing Section  
28 25253, a vehicle brake friction material manufacturer shall exercise  
29 due diligence to ensure that formulations developed to comply  
30 with Sections 25250.52 and 25250.54 are less harmful to health  
31 and the environment.

32 25250.58. The following motor vehicle classes and brakes are  
33 exempt from this article:

34 (a) Military combat vehicles.

35 (b) Vehicles employing internal closed oil immersed brakes, or  
36 a similar brake system that is fully contained and emits no copper,  
37 other debris, or fluids under normal operating conditions.

38 (c) Brakes designed for the primary purpose of holding the  
39 vehicle stationary and not designed to be used while the vehicle  
40 is in motion.

1 (d) Motorcycles.

2 25250.60. (a) Commencing on January 1, 2014, all  
3 manufacturers of friction materials used in brakes on new motor  
4 vehicles, or as replacement parts, that are sold in this state shall  
5 obtain certification from a third-party testing certification agency  
6 that each of their formulations for brake friction materials complies  
7 with Section 25250.54. A certification shall be valid for no more  
8 than three years. Manufacturers shall mark proof of certification  
9 on all brake friction materials.

10 (b) Commencing on January 1, 2025, all manufacturers of  
11 friction materials used in brakes on new motor vehicles, or as  
12 replacement parts, that are sold in this state shall obtain certification  
13 from a third-party testing certification agency that each of their  
14 formulations for brake friction materials complies with Sections  
15 25250.52 and 25250.54. A certification shall be valid for no more  
16 than three years. Manufacturers shall mark proof of certification  
17 on all brake friction materials.

18 (c) Prior to its products being sold in this state, a manufacturer  
19 of friction materials used in brakes on new motor vehicles, or as  
20 replacement parts, shall file a copy of the third-party certification  
21 of each of its brake friction materials formulations with the  
22 department. The department shall charge a reasonable filing fee  
23 upon the filing of a copy.

24 (d) Manufacturers of friction materials used for brakes on new  
25 motor vehicles, or as replacement parts, may obtain certification  
26 of compliance with the requirements of Section 25250.52 or  
27 ~~Section~~ 25250.54 at any time prior to the dates specified in those  
28 sections.

29 (e) The department, in consultation with all interested parties,  
30 and on or before January 1, 2012, shall develop all certification  
31 and marking criteria required pursuant to this section.

32 (f) Commencing on January 1, 2014, vehicle manufacturers and  
33 retailers of friction materials shall ensure that only brakes certified  
34 for sale in this state are offered for sale in this state.

35 25250.62. (a) A violation of this article, including, but not  
36 limited to, offering brake friction materials for sale without first  
37 complying with subdivision (c) of Section 25250.60 or the  
38 falsification of third-party certification, by vehicle manufacturers,  
39 brake friction materials manufacturers, distributors, or retailers,

1 shall be subject to a civil fine of up to ten thousand dollars  
2 (\$10,000) per violation.

3 (b) The department shall enforce this article. The department  
4 shall remove from sale in this state any replacement brake friction  
5 materials determined to be not in compliance with this article.

6 (c) In enforcing this article, the department shall not recall  
7 automobiles fitted with brake friction materials that do not comply  
8 with this article, but the department may impose fines and penalties  
9 authorized pursuant to subdivision (a) on automobile manufacturers  
10 whose vehicles are fitted with brake friction materials that do not  
11 comply with this article.

12 *25250.64. This article does not limit, supersede, duplicate, or*  
13 *otherwise conflict with the authority of the department to fully*  
14 *implement Article 14 (commencing with Section 25251), including*  
15 *the authority to include products in a product registry established*  
16 *pursuant to the regulations adopted pursuant to that article or any*  
17 *testing or labeling requirements imposed pursuant to that article*  
18 *if those requirements are more protective of the public health and*  
19 *environment than those prescribed by this article. Notwithstanding*  
20 *subdivision (c) of Section 25257.1, vehicle brake pads shall not*  
21 *be considered as a product category already regulated or subject*  
22 *to pending regulation for purposes of Article 14 (commencing with*  
23 *Section 25251).*

24 SEC. 3. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.